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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/587,917	08/02/2006	Jean-Claude Vandevoorde	35619-0238-00-US	3644

23973 7590 04/08/2009
DRINKER BIDDLE & REATH
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PHILADELPHIA, PA 19103-6996

EXAMINER

HUYNH, LOUIS K

ART UNIT	PAPER NUMBER
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3721

MAIL DATE	DELIVERY MODE
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04/08/2009

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No. 10/587,917	Applicant(s) VANDEVOORDE ET AL.	
	Examiner Louis K. Huynh	Art Unit 3721	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 30 March 2009.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-20 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1,2,11,12 and 20 is/are rejected.
- 7) ☒ Claim(s) 3-10 and 13-19 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 02 August 2006 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☒ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

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DETAILED ACTION

Continued Examination Under 37 CFR 1.114

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 3/30/2009 has been entered.

Claim Rejections - 35 USC § 112

2. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

3. Claim 20 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. "the tracks," "the carriage" and "the control tracks" lacks proper antecedent basis. It is noted that the Remarks filed 3/30/2009 states that the dependency of claim 20 has been changed to depend on claim 13; however, claim 20 still depends on claim 11 based on the listing of the claims filed on 3/30/2009.

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Claim Rejections - 35 USC § 103

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claims 1, 2, 11 & 12 are rejected under 35 U.S.C. 103(a) as being unpatentable over Amberg et al. (US 4,215,460) in view of Vandevoorde (US 5,060,367).

- With respect to claims 1 & 11, Amberg discloses a installation comprising: a conveyor (15) conveying a plurality of spaced apart products (12) in upright orientation, a supply of sleeves (11), at least two pairs of transfer elements, each pair comprising a pair of transfer element (25 & 31), each transfer element (25/31) is carried on a carriage (26/30) to effect a straight active path to pick up a sleeve (11) and to fit the sleeve on a product (12) and the other of the transfer element is carried on a return path different from the active path, and a worm feed device (14) for synchronizing the products (12) and the carriage (26 or 30). The installation of Amberg meets all of applicant's claimed subject matter but lacks the specific teaching of the sleeves being drawn from a sheath. However, supplying sleeves is not the invention of the present application, and it is well known in the art of applying label that sleeves can be pre-made as taught by Amberg (US 4,215,460) or drawn from a sheath as taught by Vandevoorde (US 5,060,367); therefore, it would have been obvious to a skilled person in the art, at the time of the invention was made, to have modified the installation of Amberg

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by having provided the sleeves drawn from a sheath, as taught by Vandevoorde, since supplying sleeves from a sheath is old and well known and is not the invention.

- With respect to claims 2 & 12, the modified installation of Amberg meets all of applicant's claimed subject matter but lacks the specific teaching of the synchronizer being an inlet star. Amberg uses a worm feed device (14) for synchronizing the products (12) with the carriage (26/30) carrying the transfer elements (25/31) which serves the same function as the claimed inlet star. It is known in the art that star wheel and worm feed device are both used for the purpose of regulating inlet spacing of articles into packaging machine; therefore, it would have been obvious to a skilled person in the art, at the time of the invention, to have either uses a screw or an inlet star, as a matter of engineering designed choice, for synchronizing the products (12) with the carriage (26/30).

Allowable Subject Matter

6. Claims 3-10 & 13-19 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

7. Claim 20, presumably depending on claim 13, would be allowable if rewritten to overcome the rejection(s) under 35 U.S.C. 112, 2nd paragraph, set forth in this Office action and to include all of the limitations of the base claim and any intervening claims.

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Response to Arguments

8. Applicant's arguments with respect to claims 1 & 11 have been considered but are moot in view of the new ground(s) of rejection.

Conclusion

9. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Louis K. Huynh whose telephone number is 571-272-4462. The examiner can normally be reached on M-F from 8:00AM to 3:00PM.

10. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Rinaldi I. Rada can be reached on 571-272-4467. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

11. Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

April 06, 2009

/Louis K. Huynh/
Primary Examiner
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